

## Title 15 - Mississippi Department of Health

### Part III – Office of Health Protection

#### Subpart 60 – Professional Licensure

## CHAPTER 08 REGULATIONS GOVERNING LICENSURE OF OCCUPATIONAL THERAPISTS AND OCCUPATIONAL THERAPY ASSISTANTS

### 100 GENERAL

100.01 **Purpose** The purpose of these regulations is to safeguard the public's health, safety, and welfare by establishing minimum qualifications and creating exclusive titles corresponding to the level of qualifications for individuals who wish to offer occupational therapy services to the public. Further, in order to insure the highest degree of professional conduct by those engaged in offering occupational therapy services to the public, it is the purpose of these regulations to provide and impose disciplinary sanctions, be they civil or criminal, against persons who do not meet or adhere to the procedures, qualifications, and standards set out in these regulations.

100.02 **Legal Authority:** The State Board of Health established and empowered by Section 41-3-1 et seq. of Mississippi Code of 1972, annotated, is authorized to establish and enforce these rules and procedures by virtue of "Mississippi Occupational Therapy Practice Law," Sections 73-24-1, et seq. of Mississippi Code of 1972, annotated.

100.03 **Definitions** The following terms shall have the meaning set forth below, unless the context otherwise requires:

1. **Board** shall mean the Mississippi State Board of Health.
2. **Council** shall mean the Mississippi Advisory Council in Occupational Therapy.
3. **License** shall mean the document of licensure issued by the Board.
4. **Act** shall mean the "Mississippi Occupational Therapy Practice Law" sections 73-24-1 et seq. of Mississippi Code of 1972, annotated.
5. **Examination** shall mean the examination approved by the Board.
6. **Department** shall mean the Mississippi State Department of Health.
7. **Occupational therapy** means the therapeutic use of purposeful and meaningful (goal-directed) activities and/or exercises to evaluate and treat

an individual who has, or is at risk for, a disease or disorder, impairment, activity limitation or participation restriction which interferes with his ability to function independently in daily life roles and to promote health and wellness across his lifespan.

8. **Occupational therapy intervention** includes:
  - a. remediation or restoration of performance abilities that are limited due to impairment in biological, physiological, psychological or neurological processes;
  - b. adaptation of task, process or the environment, or the teaching of compensatory techniques in order to enhance functional performance;
  - c. disability prevention methods and techniques which facilitate the development or safe application of functional performance skills; or
  - d. health promotion strategies and practices which enhance functional performance abilities.
  
9. **Occupational therapy service** includes, but is not limited to:
  - a. evaluating, developing, improving, sustaining or restoring skill in activities of daily living (ADLS), work or productive activities, including instrumental activities of daily living (IADLS), play and leisure activities;
  - b. evaluating, developing, remediating or restoring physical, sensorimotor, cognitive or psycho social components of performance;
  - c. designing, fabricating, applying or training in the use of assistive technology or orthotic devices, and training in the use of prosthetic devices;
  - d. adaptation of environments and processes, including the application of ergonomic principles, to enhance functional performance and safety in daily life roles;
  - e. application of physical agent modalities as an adjunct to or in preparation for engagement in an occupation or functional activity;
  - f. evaluating and providing intervention in collaboration with the client, family, caregiver or other person responsible for the client;
  - g. educating the client, family, caregiver or others in carrying out appropriate nonskilled interventions;

- h. consulting with groups, programs, organizations or communities to provide population-based services; or
  - i. participation in administration, education and research, including both clinical and academic environments.
10. **Occupational Therapist** means a person licensed in this state to practice occupational therapy as defined in these regulations, and whose license is in good standing.
  11. **Occupational Therapy Assistant** means a person licensed to assist in the practice of occupational therapy under the supervision of or with the consultation of a licensed occupational therapist, and whose license is in good standing.
  12. **Occupational Therapy Aide** means a person who is not licensed in the field of occupational therapy and who assists occupational therapists and occupational therapy assistants in the practice of occupational therapy under direct supervision. The occupational therapy aides' activities require an understanding of occupational therapy.
  13. **Person** means any individual, partnership, unincorporated organization or corporate body, except that only an individual may be licensed under this chapter.
  14. **Direct supervision** means the daily, direct, on-site contact at all times of a licensed occupational therapist or occupational therapy assistant when an occupational therapy aide assists in the delivery of patient care.
  15. **Association** shall mean the Mississippi Occupational Therapy Association.

100.04 **Publication** The Department shall publish, annually, a list of the names and addresses of all persons licensed by the department and a list of all persons whose licenses have been suspended, revoked, denied renewal, put on probationary status, censured, or reprimanded.

## 101 MISSISSIPPI ADVISORY COUNCIL IN OCCUPATIONAL THERAPY ("COUNCIL")

101.01 **Council Structure and Purpose** There is hereby established the Mississippi Advisory Council in Occupational Therapy under the jurisdiction of the State Board of Health. The Council shall consist of five (5) members as set forth in the Act, for the terms indicated therein, and shall serve under the jurisdiction of the State Board of Health. The purpose of the Council is to serve in an advisory capacity to the Department.

101.02 **Meetings** The Council shall meet during the first month of the year. Additional meetings may be held, at the discretion of the chairman of the Council or the written request of any two (2) members of the council. A quorum shall consist of three (3) members of the Council, including the chairman, and shall be necessary for the Council to take action by vote.

## 102 STATE BOARD OF HEALTH ("BOARD")

102.01 **Responsibilities** The Board, with the advice of the council, shall:

1. approve the examination, establish licensing and renewal of license criteria for applicants;
2. maintain an up-to-date list of all individuals licensed to practice occupational therapy, with such list being available, upon request, to the public;
3. investigate alleged or suspected violations of the provisions of these regulations or other laws of this state pertaining to occupational therapy and any rules and regulations adopted by the board; for this purpose, any authorized agents of the department shall have the power and right to enter and make reasonable inspections of any place where occupational therapy is practiced, and may inspect and/or copy any records pertaining to clients or the practice of occupational therapy under these regulations;
4. refer disciplinary actions of any individual engaged in the practice of occupational therapy to the appropriate government agency for prosecution, whether licensed or otherwise, or, in its discretion, refer same to the appropriate committee or council;
5. conduct disciplinary hearings, upon specified charges, of a licensee;
6. maintain an up-to-date list of all individuals whose license has been suspended, revoked, or denied and make such list available to public inspection and supply such list to similar regulatory boards in other states or jurisdictions;
7. keep a record of all proceedings of the Board, and make said record available to the public; and
8. direct the Department to promulgate and implement rules and procedures to carry out the purpose of the Act.

## 103 LICENSURE

103.01 **Licensure Requirements** An applicant for a regular license as an occupational therapist or occupational therapy assistant shall submit to the Department,

verified by oath, written evidence in form and content satisfactory to the Department that the applicant:

1. is of good moral character;
2. has been awarded a degree from an education program recognized by the Board;
3. has successfully completed a supervised field experience;
  - a. for an occupational therapist, as reflected in the current accrediting standards;
  - b. for an occupational therapy assistant, as reflected in the current accrediting standards;
4. has passed an examination approved by the Department; and
5. has paid the required fee(s).
6. For an occupational therapist, the program shall be accredited by the Accreditation Council for Occupational Therapy Education of the American Occupational Therapy Association, or, the board-recognized accrediting body.
7. For an occupational therapy assistant, the program shall be approved by the Accreditation Council for Occupational Therapy Education of the American Occupational Therapy Association, or the board-recognized accrediting body.

**103.02 Licensure By Endorsement** An applicant for licensure by endorsement shall submit to the Department, verified by oath, written evidence in form and content satisfactory to the Department that:

1. the applicant is currently licensed to practice occupational therapy under the laws of another state, territory, or jurisdiction; and
2. the requirements for said license are equivalent to or greater than those required in this state as set forth in sections 4-1 and 4-3 of these regulations; and
3. said license is in good standing, and is not, presently, suspended or revoked; and
4. certification from NBCOT has not been subject to disciplinary action.

**103.03 Foreign Trained Individuals** An applicant for licensure who has been trained as an occupational therapist or an occupational therapy assistant in a

foreign country, and desires to be licensed pursuant to the laws of the State of Mississippi, shall submit to the Department, verified by oath, in form and content satisfactory to the Department:

1. that the applicant is of good moral character; and
2. that the applicant has successfully completed an educational program and a supervised fieldwork experience program for occupational therapists or occupational therapy assistants; and
3. documentary evidence that the educational program and the supervised fieldwork experience are substantially equivalent to that required of a non-foreign trained applicant for licensure; and
4. that the applicant has passed an examination approved by the Department; and
5. demonstrable proficiency in the English language by passing all of the following English language examinations with scores to be determined by the Department:
  - a. Test of English as a Foreign Language (TOEFL); and
  - b. Test of Spoken English (TSE); and
  - c. Test of Written English (TWE).
6. An applicant who is a graduate of an accredited school of occupational therapy located in one of the following countries may request an exemption from the required English proficiency examinations:
  - a. England
  - b. Scotland
  - c. Ireland
  - d. Wales
  - e. Australia
  - f. New Zealand
  - g. Canada (except the province of Quebec)
7. The department reserves the right to require a personal interview with any applicant from any of the above countries for final determination of the exemption request.

103.04 **Limited Permit** A limited permit to practice as an occupational therapist or occupational therapy assistant may be granted to an applicant for licensure meeting the requirements of section 4-1 or 4-3 who has not taken the approved examination or has not received the results of the examination, subject to the conditions of section 4-5.

103.05 **Conditions of a Limited Permit:**

1. A limited permit shall be granted for a period not to exceed ninety (90) days beyond the date of the next scheduled examination.
2. A limited permit holder shall restrict his practice to the State of Mississippi.
3. Supervision of Limited Permit
  - a. An occupational therapist issued a limited permit shall practice under the supervision of or in consultation with an occupational therapist currently licensed in Mississippi. Supervision or in consultation with an occupational therapist for the purposes of this section means direct contact at least every 2 weeks at each treatment facility, with interim contact occurring by other methods, such as telephone or written communication.
  - b. An occupational therapy assistant issued a limited permit shall practice under the supervision of or in consultation with an occupational therapist currently licensed in Mississippi. Supervision or in consultation with for the purposes of this section means direct contact at least every week at each treatment facility, with interim supervision occurring by other methods, such as telephone or written communication.
  - c. An occupational therapist issued a limited permit may not supervise any licensed OT or OTA.
  - d. Direct contact for either an occupational therapist or an occupational therapy assistant should include:
    - i. A review of activities with appropriate revision or termination of the plan of care
    - ii. An assessment of utilization of outside resources (whenever applicable)
    - iii. Documentary evidence of such visit
    - iv. Discharge planning as indicated

4. Documentation in form and substance acceptable to the Department that the conditions of section 4-5(c) have been met must be on file with the Department before a limited permit will be issued.
5. The limited permit of a person who is required to take the approved examination and fails to take said examination will not be renewed.
6. A limited permit may be renewed, at the discretion of the department, only one time, through the date that the next examination results are made public.
7. Any person who has taken but not passed the required examination in another jurisdiction shall not be eligible for a limited permit.

#### 103.06 **Inactive License:**

1. A licensee may be granted inactive status upon filing a written request in form and content satisfactory to the department and upon payment of the required fee. A licensee granted inactive status shall not practice or hold himself or herself out as an occupational therapist or occupational therapy assistant and is not responsible for accruing the continuing education requirements.
2. A licensee granted inactive status for five (5) licensure years must successfully complete the following reentry requirements before resuming practice:
  3. An American Occupational Therapy Association recognized reentry course
  4. Practice under the supervision of a currently licensed occupational therapist for a period of ninety (90) calendar days.

103.07 **Abandonment:** An application shall be deemed abandoned by the Department if, after six (6) months from the date of filing, the requirements for licensing have not been completed and submitted to the Department.

## 104 **PROFESSIONAL IDENTIFICATION**

104.01 **Titles and Abbreviations** It is unlawful for any person who is not licensed under these regulations as an occupational therapist or as an occupational therapy assistant, or whose license has been suspended or revoked, to in any manner represent himself as someone who provides occupational therapy services, or use , in connection with his name or place of business the words "occupational therapist," "licensed occupational therapy assistant," or the letters "O.T.," "O.T.L.," "L.O.T.," "O.T.R.," "O.T.A." or O.T.A.L. "C.O.T.A." or any other words, letters, abbreviations or insignia indicating or implying that he is an occupational therapist or an occupational therapy assistant or that he provides



occupational therapy services; or to show in any way, orally, in writing, in print or by sign, directly or by implication, or to represent himself as an occupational therapist or an occupational therapy assistant, or someone who provides occupational therapy services.

**104.02 Production and Display of License** A person licensed to practice occupational therapy in Mississippi shall be issued a "Certificate of Licensure" and "License Identification Card." The licensee shall prominently display the "Certificate of Licensure" or copy thereof at their place(s) of employment. The licensee shall carry the "License Identification Card" with them at all times when providing services, and show said ID card when requested.

## 105 RENEWAL OF LICENSE

### 105.01 General Provisions:

1. The Board shall issue licenses which shall be subject to renewal biennially.
2. The licensure period shall be construed as May 1 through April 30 of even numbered years.

**105.02 Procedure for Renewal of License** The Department shall mail renewal notices, approximately sixty (60) days prior to the end of the licensure period, to the last home address registered with the Department, to the persons to whom licenses were issued or renewed during the preceding licensure period. The licensee shall:

1. complete the renewal form(s);
2. submit proof of continuing education credit as detailed in Section VII of these regulations;
3. enclose the renewal fee; and
4. file the above with the Department prior to the end of the licensure period.

### 105.03 Failure to Renew:

1. A licensee who does not file, with the Department, his renewal application prior to the end of the licensure period will be deemed to have allowed his license to lapse. Said license may be reinstated by the Department, in its discretion, by the payment of the renewal fee, the late renewal/reinstatement fee and the required continuing education hours provided said application for renewal is made within two (2) years after its last expiration date.

2. A license may not be reinstated after having lapsed for two (2) consecutive years. A new application must be made and the licensure regulations in effect at that time must be met.

## 106 CONTINUING EDUCATION (CE)

**106.01 Definition and philosophy** Each individual licensed as a occupational therapist or occupational therapy assistant is responsible for optimum service to the consumer and is accountable to the consumer, the employer, and the profession for evidence of maintaining high levels of skill and knowledge. Continuing education is defined as education beyond the basic preparation required for entry into the profession, directly related to the performance and practice of occupational therapy.

### 106.02 Requirements:

1. Regulations set the requirement of 20 contact hours (CH) or 2 Continuing Education Unit (CEU) to be accrued during the licensure period. No carryover of continuing education hours from one licensure period to another shall be allowed. At least 30 percent (6 Contact Hours or .6 CEU) of the required continuing education must be directly related to the clinical practice of occupational therapy. The six (6) contact hours related to clinical practice shall be live face-to-face training i.e., no internet training, video training, television training, etc. Of the remaining required 14 hours of training, 50 percent or 7 hours may be non live face-to-face training. Non live training may include home study courses, video, internet, etc. All training shall be from approved sources.
2. Individuals applying for initial licensure within a licensing term must accrue continuing education hours on a prorated scale. Written notification of required hours will be sent to the applicant at the time of licensure.
3. Persons who fail to accrue the required continuing education hours shall be issued a CE probationary license for the licensure term. Failure to accrue the required hours during the CE probationary period will result in the revocation of the license. Hours accrued are first credited for the delinquent hours lacking from the previous licensure period, and then applied to the current (CE probationary) licensing period.
4. CE probationary licenses will be issued for one licensure term only. No ensuing license may be CE probationary as a result of not meeting continuing education requirements.

**106.03 Content Criteria** The content must apply to the field of occupational therapy and performance and must be designed to meet one of the following goals:

1. Update knowledge and skills required for competent performance beyond entry level as described in current legislation and regulations.

2. Allow the licensee to enhance his knowledge and skills.
3. Provide opportunities for interdisciplinary learning.
4. Extend limits of professional capabilities and opportunities.
5. Facilitate personal contributions to the advancement of the profession.

106.04 **Sources of Continuing Education** Continuing education hours may be accrued from the following sources, when the content of the programs relates to the profession of occupational therapy:

1. Attendance at educational programs:
  - a. Attendance at educational programs where continuing education credit is given and approved by the Mississippi Occupational Therapy Association (MSOTA).
  - b. Attendance at educational programs where continuing education credit is given and approved by the American Occupational Therapy Association (AOTA), including other state association educational programs.
  - c. Attendance at educational programs where continuing education credit is given and approved by the American Medical Association (AMA) and its components.
  - d. Attendance at other programs approved for continuing education credit by AOTA, AMA, APTA, ASHA or their components.
  - e. Attendance at educational programs where continuing education credit is given and approved by accredited universities or colleges.
  - f. Attendance at educational programs where continuing education credit is given and approved by a licensure authority of any jurisdiction in the United States for occupational therapy.
  - g. Attendance at educational programs where continuing education credit is given and approved by the American Physical Therapy Association (APTA), including other state association educational programs.
  - h. Attendance at educational programs where continuing education credit is given and approved by the American Speech and Hearing Association (ASHA), including other state association educational programs.

A course/provider not approved by one of the organizations listed in section 7-4(a) will not be accepted as continuing education for licensure renewal purposes. A course not approved by an organization listed in this section of the regulations may be reviewed by the department. Contact the department for information.

2. Presentations, made before recognized groups of occupational therapists, medical practitioners, or other health related professionals and directly related to the profession of occupational therapy. To be considered for continuing education credit, material outline and a synopsis must be submitted to the Department prior to the presentation date. Notice of approval or disapproval will be sent following a review by the Department. For approved presentations, the presenter may accrue one (1) hour of continuing education credit for each hour of the actual presentation, and one (1) hour of preparation time, for a total of (2) two hours. Presenter credit is given one (1) time only, even though the session may be presented multiple times. No more than 30% of total required hours may be accrued through presentations.
3. Academic course work:
  - a. Academic course work taken for credit from a regionally accredited college or university. The courses must relate to the profession of occupational therapy. One academic semester hour shall be equivalent to fifteen (15) clock hours for continuing education credit. No more than fifty percent (50%) of total required hours may be accrued through academic course work. Undergraduate level courses are acceptable only when they can be demonstrated to update or enhance competency in licensee's specific practice field, and documented that course work has not been taken previously, to the satisfaction of the department. Graduate level courses are acceptable for occupational therapists. Undergraduate courses are acceptable for occupational therapy assistants.
  - b. Academic course work taken by an OT/OTA for credit toward an advanced degree in occupational therapy may be counted as meeting the full continuing education requirements.
4. Home Study Courses approved by the department.
5. Professional publications where the licensee is an author. To be considered for continuing education credit, a reprint of the published article must be submitted to the department. Notice of approval or disapproval will be sent out after review by the department. A maximum of 3 contact hours may be accrued through professional publication.
6. Specific **UNACCEPTABLE** activities include:

- a. All in-service programs not approved under Section 7-4(a) of these regulations.
- b. Orientation to specific work-site programs dealing with organizational structures, processes, or procedures.
- c. Meetings for purposes of policy decision.
- d. Non-educational meetings at annual conferences, chapter or organizational meetings.
- e. Entertainment or recreational meetings or activities.
- f. Committee meetings, holding of office, serving as an organizational delegate.
- g. Visiting exhibits or poster presentations.
- h. CPR education.
- i. Self-directed studies other than those previously outlined.

106.05 **Reporting Procedures for Continuing Education** It is the responsibility of the licensee to insure that the following criteria are met with respect to continuing education credit:

1. Attendance at seminars, workshops, presentations, etc., approved by an organization listed in section 7-4(a) is automatically accepted for credit unless sessions are duplicated. Verification of attendance may be made by submitting a continuing education certificate (must include source, number of continuing education hours and date of attendance) and proof of approval for the program/provider.
2. Credit for presentations: Submit a copy of the Department's approval letter.
3. Academic course work credits must meet the content criteria in Section 7-3, and must be accompanied by a course description from the college or university catalog and a copy of the transcript or final grade report. A minimum course grade of "C" is required for CE credit.
4. Home Study Course: A certificate of completion must be submitted to receive continuing education credit.
5. Publication: A letter of approval from the department.

## 107 **REVOCAION, SUSPENSION, AND DENIAL OF LICENSE**

107.01 **Standards of Conduct** Licensees subject to these regulations shall conduct their activities, services, and practice in accordance with this section. Licensees may be subject to the exercise of the disciplinary sanctions enumerated in Section 8-6 of these regulations if the Department finds that a licensee is guilty of any of the following:

1. Negligence in the practice or performance of professional services or activities.
2. Engaging in dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud or harm the public in the course of professional services or activities.
3. Perpetrating or cooperating in fraud or material deception in obtaining or renewing a license or attempting the same.
4. Being convicted of any crime which has a substantial relationship to the licensee's activities and services or an essential element of which is misstatement, fraud, or dishonesty.
5. Being convicted of any crime which is a felony under the laws of this state or the United States.
6. Engaging in or permitting the performance of unacceptable services personally or by others working under the licensee's supervision due to the licensee's deliberate or negligent act or acts or failure to act, regardless of whether actual damage or damages to the public is established.
7. Continued practice although the licensee has become unfit to practice as a occupational therapist or occupational therapy assistant due to:
  - a. failure to keep abreast of current professional theory or practice; or
  - b. physical or mental disability; the entry of an order or judgment by a court of competent jurisdiction that a licensee is in need of mental treatment or is incompetent shall constitute mental disability; or
  - c. addiction or severe dependency upon alcohol or other drugs which may endanger the public by impairing the licensee's ability to practice.
8. Having disciplinary action taken against the licensee's license in another state.
9. Making differential, detrimental treatment against any person because of race, color, creed, sex, religion or national origin.

10. Engaging in lewd conduct in connection with professional services or activities.
11. Engaging in false or misleading advertising.
12. Contracting, assisting, or permitting unlicensed persons to perform services for which a license is required under these regulations.
13. Violation of any probation requirements placed on a license by the Board.
14. Revealing confidential information except as may be required by law.
15. Failing to inform clients of the fact that the client no longer needs the services or professional assistance of the licensee.
16. Charging excessive or unreasonable fees or engaging in unreasonable collection practices.
17. For treating or attempting to treat ailments or other health conditions of human beings other than by occupational therapy as authorized by these regulations.
18. For applying or offering to apply occupational therapy as an occupational therapist within the scope of occupational therapy, or for acting as an occupational therapy assistant other than under the supervision or in consultation with a licensed occupational therapist.
19. Violations of the current code of ethics for occupational therapists and occupational therapy assistants adopted by the American Occupational Therapy Association or its successor organization.
20. Violations of any rules or regulations promulgated pursuant to these regulations.
21. Has engaged in any conduct considered by the Board to be detrimental to the profession of occupational therapy.
22. The Department may order a licensee to submit to a reasonable physical or mental examination if the licensee's physical or mental capacity to practice safely is at issue in a disciplinary proceeding. Failure to comply with a board order to submit to a physical or mental examination shall render a licensee subject to the summary suspension procedures described in Section 8-2 of these regulations.

#### 107.02 **Summary Suspension:**

1. The Department may summarily suspend a license without a hearing, simultaneously with the filing of a formal complaint and notice of hearing, if the Department determines that:
  - a. the health, safety, or welfare of the general public is in immediate danger; or
  - b. the licensee's physical capacity to practice his profession is in issue; or
  - c. the licensee's mental capacity to practice his profession is in issue.
2. If the Department summarily suspends a license, a hearing must begin within twenty (20) days after such suspension begins, unless continued at the request of the licensee.

107.03 **Complaints** All complaints concerning a licensee, his business, or professional practice, shall be reviewed by the Department. Each complaint received shall be logged, recording at a minimum the following information:

1. A. licensee's name;
2. B. name of the complaining party, if known;
3. C. date of complaint;
4. D. brief statement of complaint; and
5. E. disposition.

107.04 **Investigation** All complaints will be investigated and evaluated by Department.

107.05 **Notice of Charges and Hearing**

1. Following the investigative process, the Department may file formal charges against the licensee. Such formal complaint shall, at a minimum, inform the licensee of the facts which are the basis of the charge and which are specific enough to enable the licensee to defend against the charges.
2. Each licensee, whose conduct is the subject of a formal charge which seeks to impose disciplinary action against the licensee, shall be served notice of the formal charge at least thirty (30) days before the date of hearing. A hearing shall be presided over by the Board or the Board's designee. Service shall be considered to have been given if the notice was personally received by the licensee, or the notice was mailed certified, return receipt requested, to the licensee at the licensee's last known



address as listed with the Department. The notice of the formal hearing shall consist at a minimum of the following information:

- a. the time, place and date of hearing;
  - b. that the licensee shall appear personally at the hearing and may be represented by counsel;
  - c. that the licensee shall have the right to produce witnesses and evidence in the licensee's behalf and shall have the right to cross-examine adverse witnesses and evidence;
  - d. that the hearing could result in disciplinary action being taken against the licensee's license;
  - e. that rules for the conduct of these hearings exist and it may be in the licensee's best interest to obtain a copy; and
  - f. that the Department, or its designee, shall preside at the hearing and following the conclusion of the hearing shall make findings of facts, conclusions of law and recommendations, separately stated, to the Board as to what disciplinary action, if any, should be imposed on the licensee.
3. The Department may order a licensee to submit to a reasonable physical or mental examination if the licensee's physical or mental capacity to practice safely is at issue in a disciplinary proceeding. Failure to comply with a board order to submit to a physical or mental examination shall render a licensee subject to the summary suspension procedures described in Section 8-2 of these regulations.
  4. The Department or its designee shall hear evidence produced in support of the formal charges and contrary evidence produced by the licensee. At the conclusion of the hearing, the Board shall issue an order, within sixty (60) days.
  5. Disposition of any complaints may be made by consent order or stipulation between the Board and the licensee.
  6. All proceedings pursuant to this section are matters of public record and shall be preserved pursuant to state law.

**107.06 Sanctions** The Department may impose any of the following sanctions, singly or in combination, when it finds that a licensee is guilty of any of the above offenses:

1. Revoke the license.

2. Suspend the license, for any period of time.
3. Censure the licensee.
4. Impose a monetary penalty of not more than Two Hundred Dollars (\$200.00).
5. Place a licensee on probationary status and require the licensee to submit to any of the following:
  - a. report regularly to the Department, or its designee, upon matters which are the basis of probation;
  - b. continue to renew professional education until a satisfactory degree of skill has been attained in those areas which are the basis of probation; or
  - c. such other reasonable requirements or restrictions as are proper.
6. Refuse to renew a license.
7. Revoke probation which has been granted and impose any other disciplinary action in this subsection when the requirements of probation have not been fulfilled or have been violated.
8. The Department may seek the counsel of the Mississippi Advisory Council in Occupational Therapy regarding disciplinary actions.
9. Disposition of any formal complaint may be made by consent order or stipulation between the board and the licensee.

107.07 **Appeals** Any person aggrieved by a decision of the Department shall have a right of appeal in the manner provided for in the Act and the Laws of the State of Mississippi.

## 108 **EXCEPTIONS AND EXEMPTIONS**

108.01 **Exceptions** Nothing in this chapter shall be construed as preventing or restricting the practice, services or activities of:

1. Any person, licensed in this state by any other law, from engaging in the profession or occupation for which he or she is licensed;
2. Any person who is employed as an occupational therapist or occupational therapy assistant by the United States armed services, the U.S. Public Health Service, the Veteran's Administration or other federal agencies, if such person provides occupational therapy solely under the director or control of the organization by which he is employed;

3. Any person pursuing a course of study leading to a degree or certificate in occupational therapy in an accredited, recognized or approved educational program, or advanced training in a specialty area, if such activities and services constitute a part of the supervised course of study, and if such person is designated by a title which clearly indicates his status as a trainee or student; (revised 2/20/98)
4. Any person fulfilling the supervised fieldwork experience requirements of Section 73-24-19, if such activities and services constitute a part of the experience necessary to meet the requirements of that section;
5. Any person employed as an occupational therapy aide or who works under the supervision of a licensed occupational therapist; or
6. Any person performing occupational therapy services in the state, if these services are performed for no more than thirty (30) days in a calendar year under the supervision of an occupational therapist licensed under this chapter, if:
  - a. The person is licensed under the law of another state which has licensure requirements at least as stringent as the requirements of this chapter, or
  - b. The person is certified as an Occupational Therapist Registered (OTR) or a Certified Occupational Therapy Assistant (COTA), established by the National Board for Certification in Occupational Therapy (NBCOT) or its successor organization.

Any licensee who will supervise a person performing occupational therapy services in the state shall ensure that the following information is on file and satisfactory with the department prior to the person performing occupational therapy services:

- a. Proof that the person meets one or both of the requirements in subsection F(1)(2) of this section of the regulations; and
  - b. A schedule indicating when the person will be performing occupational therapy services; and
  - c. The name(s) of the facility(ies) where the person will perform occupational therapy services
7. Any person certified by the American Board of Certification in Orthotics and Prosthetics as a Certified Orthotist, C.O., Certified Prosthetist, C.P., Certified Prosthetist/Orthotist, C.P.O., or anyone working under their direct supervision.

#### 108.02 **Good Samaritan Act:**

[LEFT BLANK ON PURPOSE]

## 109 OCCUPATIONAL THERAPY ASSISTANT

109.01 **Definition** An occupational therapy assistant (OTA), shall be defined as an individual who meets the qualifications and requirements as set forth in Section IV of these regulations, and has been issued a license by the Department. The roles and responsibilities of an OTA are:

1. To practice only under the supervision of, or in consultation with, an occupational therapist licensed to practice in Mississippi.
2. To assist with but not perform total patient evaluations.
3. To perform treatment procedures as delegated by the occupational therapist.
4. To supervise other supportive personnel as charged by the occupational therapist.
5. To notify the occupational therapist of changes in the patient's status, including all untoward patient responses.
6. To discontinue immediately any treatment procedures which in their judgment appear to be harmful to the patient.
7. To refuse to carry out treatment procedures that they believe to be not in the best interest of the patient.

### 109.02 **Supervision or Consultation:**

1. An occupational therapy assistant issued a limited permit (see section 4-5).
2. An occupational therapy assistant issued a regular license.
  - a. Supervision or consultation which means face to face meetings of supervisor and supervisee (OT and OTA) to review and evaluate treatment and progress at the work site, and regular interim communication between the supervisor and supervisee. A face to face meeting is held at least once every seventh treatment day or 21 calendar days, whichever comes first.
  - b. The supervising occupational therapist must be accessible by telecommunications to the occupational therapy assistant on a daily basis while the occupational therapy assistant is treating patients.

- c. Regardless of the practice setting, the following requirements must be observed when the occupational therapist is supervising or consulting with the occupational therapy assistant:
  - i. The initial visit for evaluation of the patient and establishment of a plan of care must be made by the supervising or consulting occupational therapist.
  - ii. A joint supervisory visit must be made by the supervising occupational therapist and the occupational therapy assistant with the patient present at the patient's residence or treatment setting once every 7 treatment days or every 21 days, whichever comes first.
  - iii. A supervisory visit should include:
    - A review of activities with appropriate revision or termination of the plan of care
    - An assessment of utilization of outside resources (whenever applicable)
    - Documentary evidence of such visit
    - Discharge planning as indicated
  - iv. An occupational therapist may not supervise/consult with more than two (2) occupational therapy assistants except in school settings, or settings where maintenance or tertiary type services are provided, such as the regional treatment centers under the direction of the Department of Mental Health.

### 3. **Occupational therapy aides:**

- a. An occupational therapy aide is an unlicensed person who assists an occupational therapist or occupational therapy assistant as defined in Section 1-3 of these regulations. An occupational therapy aide is a worker who is trained on the job.
- b. Duties assigned to an occupational therapy aide must be determined and directly supervised by a licensed occupational therapist or occupational therapy assistant and must not exceed the level of specific training, knowledge, skill and competence of the individual being supervised.
- c. The supervising occupational therapist or occupational therapy assistant is professionally responsible for the acts or actions

performed by any occupational therapy aide supervised by the licensee in the occupational therapy setting.

- d. Documentation of all training specific to the aide's duties must be in the aide's file.
- e. Duties or functions which occupational therapy aides shall not perform include the following:
  - i. Interpreting referrals or prescriptions for occupational therapy services;
  - ii. Performing evaluative procedures;
  - iii. Developing, planning, adjusting, or modifying treatment procedures;
  - iv. Preparing written documentation of patient treatment or progress; and
  - v. Act independently without the direct supervision of a licensed occupational therapist or occupational therapy assistant during patient therapy sessions.
4. The supervision/consultation requirements stated in these regulations are minimal. It is the professional responsibility and duty of the licensed occupational therapist to provide the occupational therapist assistant with more supervision if deemed necessary in the occupational therapist's professional judgment.

## 110 **CRIMINAL OFFENSES AND PUNISHMENT**

### 110.01 **Criminal Offenses and Punishment**

1. Any person who violates any provision of Section V of these regulations,, upon conviction, shall be guilty of a misdemeanor and shall be fined not more than One Thousand Dollars (\$1,000.00) for each violation.
2. Any person who knowingly shall make a material false statement in his application for license under these regulations or in response to any inquiry by the department or the board shall be fined not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) or imprisoned for not less than ten (10) days nor more than sixty (60) days, or both such fine and imprisonment.

## 111 **FEES**

111.01 **Method of Payment** In accordance with the Act, the following non-refundable fees, where applicable, are payable to the Mississippi State Department of Health by check or money order.

111.02 **Schedule of Fees:**

- |     |  |          |
|-----|--|----------|
| 1.  | Application Fee.....                     | \$100.00 |
| 2.  | Initial Licensure fee                    |          |
|     | a. Occupational Therapist.....           | \$150.00 |
|     | b. Occupational Therapy Assistant.....   | \$100.00 |
| 3.  | Renewal Fee                              |          |
|     | a. Occupational Therapist.....           | \$150.00 |
|     | b. Occupational Therapy Assistant.....   | \$100.00 |
| 4.  | Late Renewal/Reinstatement Fee.....      | \$125.00 |
| 5.  | License Certificate Replacement Fee..... | \$ 25.00 |
| 6.  | Duplicate License Certificate Fee.....   | \$ 25.00 |
| 7.  | ID Card Replacement Fee.....             | \$ 10.00 |
| 8.  | License Verification Fee.....            | \$ 25.00 |
| 9.  | Inactive License Fee.....                | \$ 50.00 |
| 10. | Examination Fee:                         |          |
|     | a. Occupational Therapist.....           | **       |
|     | b. Occupational Therapy Assistant.....   | **       |

\*\*Contact the examination administrant for current examination fees.

111.03 **Examination Fee** Fees for the examination are to be paid to the appropriate examination administrant.

112 **ADMINISTRATIVE GRIEVANCE PROCEDURE**

112.01 **Administrative Appeals:**

1. Any person aggrieved by a decision regarding the initial application for licensure or the renewal of licensure shall have the right of a second

review by the Director of Professional Licensure and Council or a designated member of the Council.

2. Any person aggrieved by a decision rendered after the second review shall have the right of administrative appeal and a public hearing to be conducted in accordance with the policies of the Department of Health.

112.02 **Notification** Written notice will be provided to all applicants regarding denial of an original license or a renewal license. Such notice shall contain the reason thereof.

112.03 **Hearing:**

1. If requested in writing within the specified time frame a hearing will be provided in which the applicant may show cause why the license should be granted or renewed.
2. Within sixty (60) days of the hearing, or other such time frame as determined during the hearing, written findings of fact, together with a recommendation for action on the license in question, shall be forwarded to the State Health Officer. The State Health Officer shall decide what action will be taken on the recommendation within five days of its receipt. Written notice shall be provided to the applicant.

113 **SUSPENSION FOR FAILURE TO PAY CHILD SUPPORT** In addition, the Department is authorized to suspend the license of any licensee for being out of compliance with an order for support, as defined in Section 93-11-153. The procedure for suspension of a license for being out of compliance with an order for support, and the procedure for reissuance or reinstatement of a license suspended for that purpose, and the payment of any fees for the reissuance or reinstatement of a license suspended for that purpose, shall be governed by Section 93-11-157 or 93-11-163, as the case may be. If there is any conflict between any provision of Section 93-11-157 or 93-11-163 and any provision of this chapter, the provisions of Section 93-11-157 or 93-11-163, as the case may be, shall control.

## **CERTIFICATION OF REGULATION**

This is to certify that the above **Regulations Governing Licensure of Occupational Therapists and Occupational Therapy Assistants** was adopted by the Mississippi State Board of Health on January 10, 2002 to become effective April 10, 2002.

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Brian W. Amy, MD, MHA, MPH  
Secretary and Executive Officer